



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
50629 Highways 6 and 24
Glenwood Springs, Colorado 81601
www.co.blm.gov



CATEGORIAL EXCLUSION

NUMBER: CO140_2006_142CE

CASEFILE/PROJECT NUMBER: COC070318

PROJECT NAME: Eagle County, ECO Paved Trail

LEGAL DESCRIPTION: (See attached maps)

T. 5 S, R. 84 W, Section 6, lot 8 and 9, Sixth Principal Meridian, Eagle County, Colorado

APPLICANT: Eagle County, ECO Trails Department, Contact: Ellie Caryl

DESCRIPTION OF PROPOSED ACTION:

Eagle County - ECO Trails is planning to construct a ten foot wide paved path located between the towns of Eagle and Gypsum. During survey, ECO surveyors discovered a thin "wedge" belonging to BLM. It is located in T5S R84W Section 6, lot 8 and 9.

The ten foot wide paved trail would be scheduled for construction in the fall of 2006 and would span 2.7 miles, of which 330 feet is on BLM Public Lands. Trail improvements would include the asphalt trail, gravel shoulders, retaining of the uphill bank by three to five foot landscape wall, a screening fence on the northern edge of trail, and associated up or downhill cut or fill slopes to facilitate the level trail platform. The area within lot 8 of the BLM Managed Lands is estimated at 8,714.50 square feet, and the right-of-way would require most of that area for the path and a temporary construction site.

There is an authorized O&G pipeline to Rocky Mountain Natural Gas, C-3911 (who is now under the ownership of Kinder-Morgan, Inc.). Kinder-Morgan, Inc. has provided a non-objection letter for the proposed trail.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for and is in conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Glenwood Springs Resource Management Plan.

Date Approved: January, 1984; revised in 1988; amended in November 1991 - Oil and Gas Leasing and Development - Final Supplemental Environmental Impact Statement; amended Nov. 1996 - Colorado Standards and Guidelines; amended in August 1997 - Castle Peak Travel Management Plan; amended in March 1999 - Oil and Gas Leasing & Development Final Supplemental Environmental Impact Statement; amended in November 1999 - Red Hill Plan Amendment; and amended in September 2002 – Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance.

Decision Number/Page: Page 35, Recreation Resource Management.

Decision Language: To ensure the continued availability of outdoor recreational opportunities which the public seeks and which are not readily available from other sources, to reduce the impacts of recreational use on fragile and unique resource values, and to provide for visitor safety.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion in 516 DM 6, Appendix 5.4; E. Realty , Number 12: Grants of rights-of-way wholly within the boundaries of other compatibly developed rights-of-way. The proposed trail is within Interstate 70, Highway 6, a railroad corridor, and a buried natural gas pipeline.

| Exclusion | YES | NO |
|--|-----|----------|
| 1. Have significant adverse effects on public health and safety. | ___ | <u>✓</u> |
| 2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas. | ___ | <u>✓</u> |
| 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources. | ___ | <u>✓</u> |
| 4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. | ___ | <u>✓</u> |
| 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. | ___ | <u>✓</u> |
| 6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects. | ___ | <u>✓</u> |
| 7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places. | ___ | <u>✓</u> |
| 8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species. | ___ | <u>✓</u> |
| 9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment. | ___ | <u>✓</u> |
| 10. Have the potential for a disproportionately high and adverse effect on low income or minority populations. | ___ | <u>✓</u> |
| 11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites. | ___ | <u>✓</u> |
| 12. Significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species. | ___ | <u>✓</u> |

INTERDISCIPLINARY REVIEW:

| <u>Name</u> | <u>Title</u> | <u>Area of Responsibility</u> |
|----------------------|--------------------------------|---|
| Cheryl Harrison..... | Archaeologist..... | Cultural Resources and Native American Concerns |
| Carla Scheck..... | Ecologist..... | Noxious Weeds, T&E Plants, Vegetation |
| Tom Fresques..... | Wildlife Biologist..... | Wildlife, Fisheries, T&E Species |
| Kay Hopkins..... | Outdoor Recreation Planner.... | VRM, WSR, ACEC, Wilderness |

REMARKS:

Cultural Resources/Native American Concerns: A copy of the Education/Discovery Stipulation needs to be added to the permit.

Special Status Plants: The project area includes potential habitat for the BLM Sensitive plant, Harrington's penstemon. No surveys have been done in the immediate area; however, given that the trail would be placed adjacent to and in the right-of-way of Highway 6, the site is already disturbed and likely supports few, if any, Penstemon harringtonii plants. Also, Harrington's penstemon is widespread in the local area and the loss of the small amount of potential habitat in the project area is unlikely to cause a loss of long-term viability of the local population or contribute to the need to list this species under the Endangered Species Act.

NAME OF PREPARER: Carole Huey

DATE: August 24, 2006

DECISION AND RATIONALE: I have reviewed this CER and have decided to implement the proposed action.

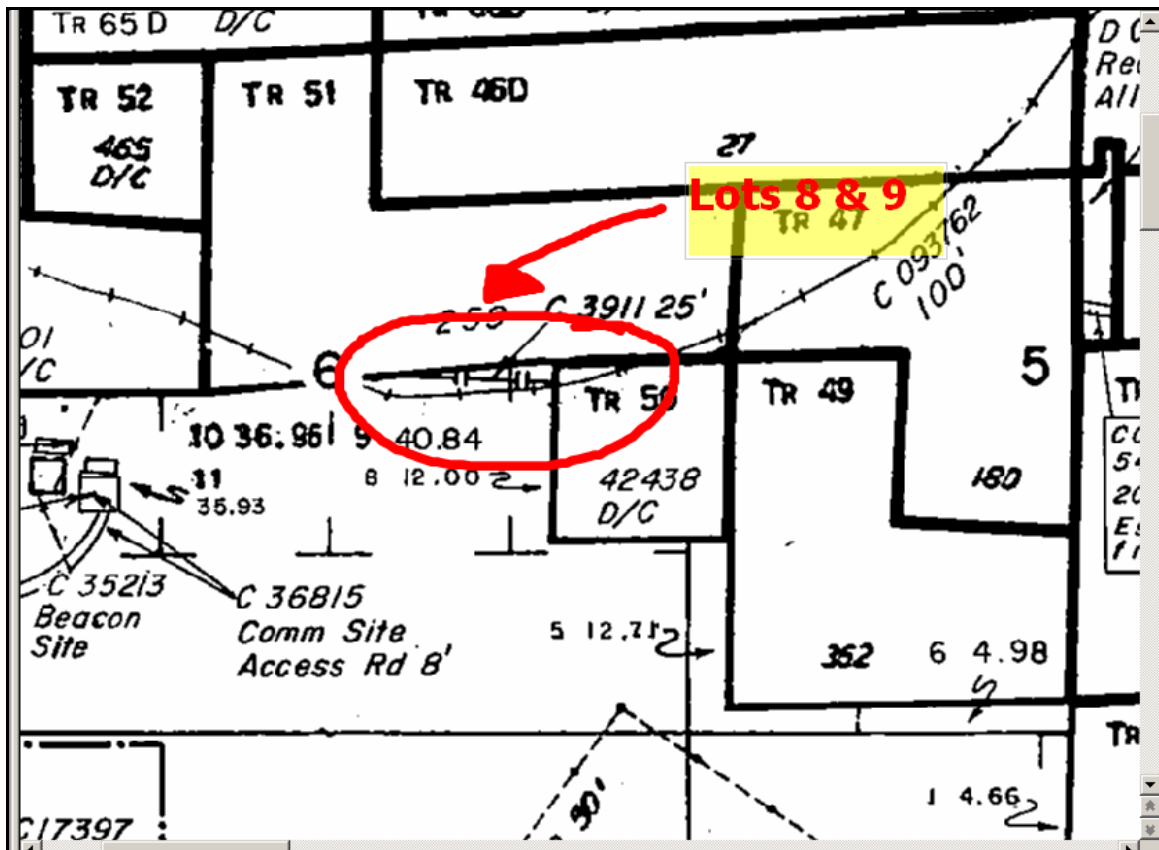
This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

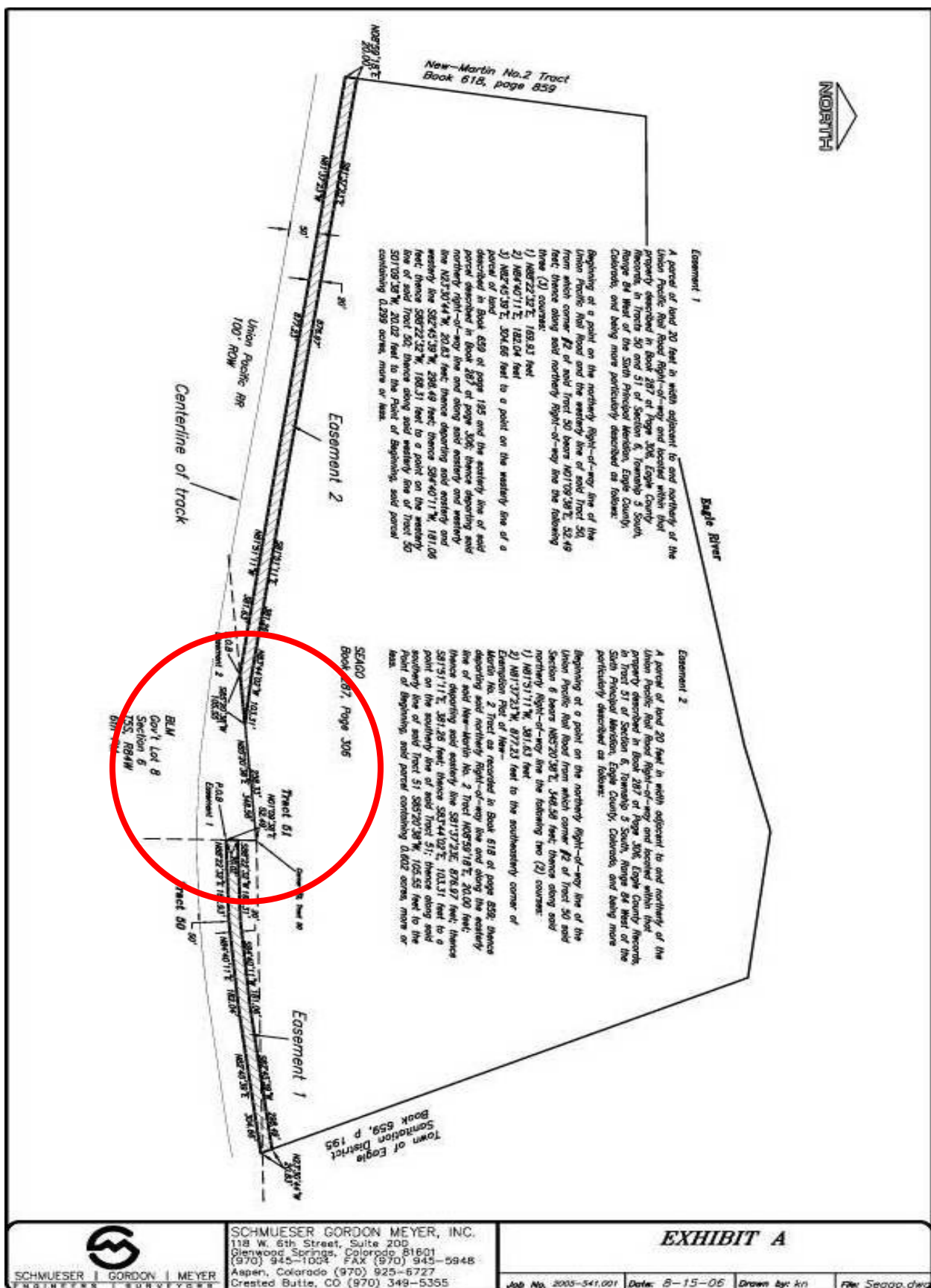
SIGNATURE OF AUTHORIZED OFFICIAL:


for Associate Field Office Manager

DATE SIGNED:

8/25/2006





UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT / TEMPORARY USE PERMIT

1. A right-of-way is hereby granted pursuant to Title V of the Federal land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

**Eagle County, ECO Trails Department
PO Box 1070
Gypsum, CO 81637**

receives a right to construct, operate, maintain, and terminate an access road as shown on public lands (or federal land for MLA Rights-of-Way) described as follows:

**T. 5 S., R. 84 W.,
section 6, Lot 8 and 9, 6th Principal Meridian.**

- b. The right-of-way area granted here is **30 feet wide, 330 feet long** and contains **0.02 acres, more or less.**
- c. This instrument shall terminate on **December 31, 2035**, approximately **30 years** from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.
4. Terms and Conditions:
 - a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
 - b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within **90 days**, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
 - c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
 - d. The stipulations, plans, maps, or designs set forth in Exhibits **A** and **B**, dated **August 25, 2006** attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
 - f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

Signature of Holder

Signature of Authorized Officer

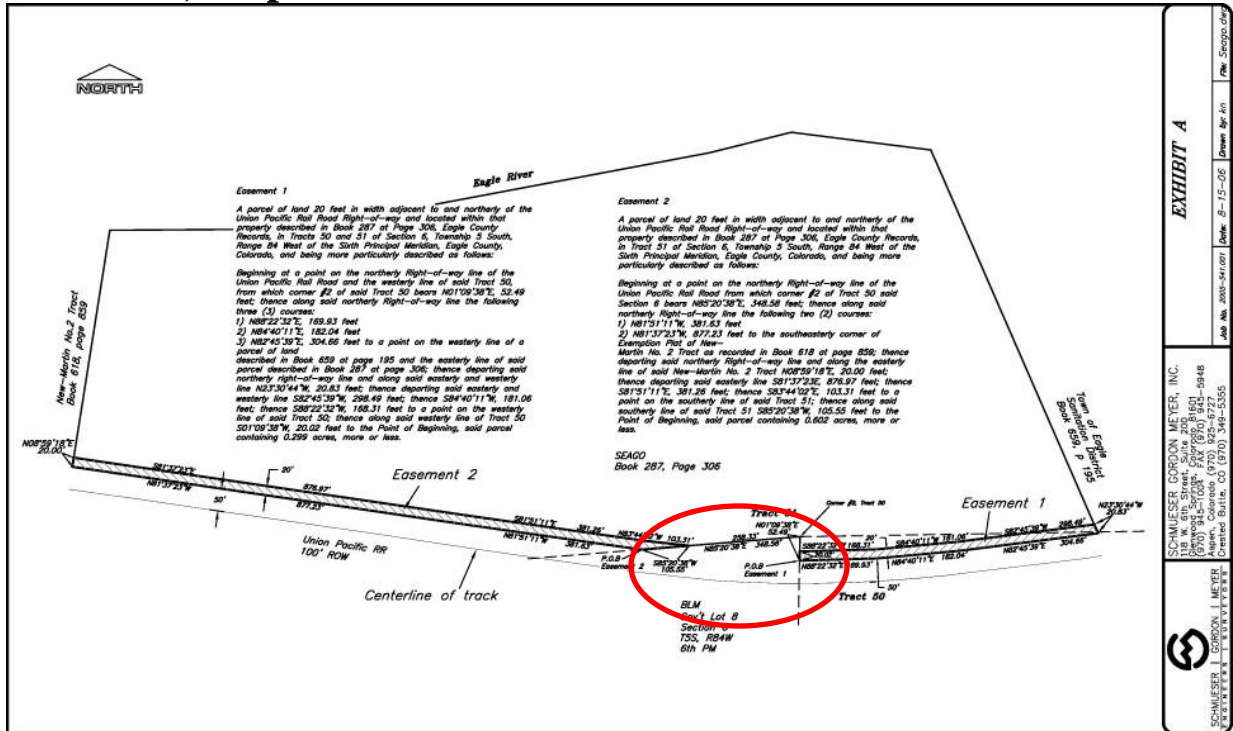
Title

Glenwood Springs Field Manager

(Date)

(Effective date of Grant)

Exhibit A, Map:



STIPULATIONS / COC070318 / EAGLE COUNTY, ECO DEPT. PAVED TRAIL

- (a) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use;
- (b) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;
- (c) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;
- (d) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;
- (e) Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate;
- (f) Pay monitoring fees and rent described in §2805.16 of this subpart and subpart 2806 of this part; *not applicable, holder is exempt from rent as per 43 CFR § 2804.16.*
- (g) If BLM requires, obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant;
- (h) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (*see* §2807.12 of this part);
- (i) Comply with project-specific terms, conditions, and stipulations, including requirements to:
 - (1) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary;
 - (2) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;
 - (3) Control or prevent damage to:
 - (i) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

- (ii) Public and private property; and
- (iii) Public health and safety;
- (4) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 *et seq.*);
- (5) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant;
- (6) When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and
- (7) Grant BLM an equivalent authorization for an access road across your land if BLM determines the reciprocal authorization is needed in the public interest and the authorization BLM issues to you is also for road access;
- (j) Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared;
- (k) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;
- (l) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, when you receive, assign, renew, amend, or terminate your grant;
- (m) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;
- (n) Comply with all liability and indemnification provisions and stipulations in the grant;
- (o) As BLM directs, provide diagrams or maps showing the location of any constructed facility; and
- (p) Comply with all other stipulations that BLM may require.

(q) Education/Discovery Stipulation:

All persons in the area who are associated with this project must be informed that if anyone is found disturbing historic, archaeological, or scientific resources, including collecting artifacts, the person or persons will be subject to prosecution.

Pursuant to 43CFR10.4(g), the BLM authorized officer must be notified, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43CFR10.4 (c) and (d), activities must stop in the vicinity of the discovery and the discovery must be protected for 30 days or until notified to proceed by the authorized officer.

If in connection with operations under this contract the project proponent, his contractors, subcontractors, or the employees of any of them, discovers, encounters or becomes aware of any objects or sites of cultural or paleontological value or scientific interest such as historic or prehistoric ruins, graves or grave markers, fossils, or artifacts, the proponent shall immediately suspend all operations in the vicinity of the cultural or paleontological resource and shall notify the BLM authorized officer of the findings (16 U.S.C. 470h-3, 36CFR800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the authorized officer. Approval to proceed will be based upon evaluation of the resource. Evaluation shall be by a qualified professional selected by the authorized officer from a federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the services of a non-federal professional.

Within five working days the authorized officer will inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a time frame for the authorized officer to complete an expedited review under 36CFR800.11, or any agreements in lieu thereof, to confirm through the State Historic Preservation Officer that the findings of the authorized officer are correct and the mitigation is appropriate.

The proponent may relocate activities to avoid the expense of mitigation and/or the delays associated with this process, as long as the new area has been appropriately cleared of resources and the exposed materials are recorded and stabilized. Otherwise, the proponent will be responsible for mitigation costs. The authorized officer will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the authorized officer that the required mitigation has been completed, the proponent will then be allowed to resume construction.

Antiquities, historic ruins, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource will also be included in this evaluation and/or mitigation.

Antiquities, historic ruins, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization will also be protected. Impacts that occur to such resources,

that are related to the authorizations activities, will be mitigated at the proponent's cost including the cost of consultation with Native American groups.